



WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N. W.  
SUITE 800  
WASHINGTON DC 20006-1021

In re Application of: :  
SUZUKI, Koichi, et al. :  
U.S. Application No.: 10/573,794 :  
PCT No.: PCT/JP2004/014544 :  
International Filing Date: 27 September 2004 :  
Priority Date: 29 September 2003 :  
Atty Docket No.: 2006\_0470A :  
For: ROYAL JELLY PEPTIDE AND :  
COMPOSITION CONTAINING SAME :

DECISION ON PETITION

The present decision is issued in response to the "Petition Under 37 CFR 1.137(b) For Revival Of Unintentionally Abandoned Patent Application" filed 07 March 2008, and supplemented on 13 June 2008. Applicants have submitted the required petition fee.

**BACKGROUND**

On 27 September 2004, applicants filed international application PCT/JP2004/014544. The application claimed a priority date of 29 September 2003, and it designated the United States. On 07 April 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for entry into the U.S. national stage and submission of the basic national fee was thirty months from the priority date, i.e., 29 March 2006.

On 28 March 2006, applicants filed materials to initiate the U.S national stage of international application PCT/CA2005/000547 including, among other materials, payment of the basic national fee and a translation of the international application into English.

On 02 June 2006, applicants submitted an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

On 29 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) requiring submission of appropriate sequence listing materials.

On 28 February 2007, applicants filed sequence listing materials in response to the Form PCT/DO/922.

On 23 April 2007, the DO/EO/US mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the sequence listing materials filed by applicants on 28 February 2007 were defective.

On 23 May 2007, applicants filed sequence listing materials in response to the Form PCT/DO/EO/916.

On 12 September 2007, the DO/EO/US mailed a second "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the sequence listing materials filed by applicants on 23 May 2007 were defective. The Notification afforded applicants one month to file a proper response, and it indicated that the one month response period could not be extended pursuant to 37 CFR 1.136(a).

A timely response to the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 12 September 2007 was not submitted. Accordingly, the present application became abandoned based on applicants' failure to file a timely and proper response to the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 12 September 2007.

On 07 March 2008, applicants filed the "Petition Under 37 CFR 1.137(b) For Revival Of Unintentionally Abandoned Patent Application" considered herein, accompanied by revised sequence listing materials.

On 13 June 2008, after having been informed that the Computer Readable Form (CRF) of the sequence listing filed with the petition for revival could not be located, applicants filed a supplement to the petition that included a copy of the previously filed CRF and a return postcard confirming that the CRF was included with the petition materials filed 13 June 2008.

### **DISCUSSION**

The present petition for revival was accompanied by payment of the required petition fee. The petition was also accompanied by the "required reply" in the form of a proper response to the "Notification of Defective Response" (Form PCT/DO/EO/916) mailed 12 September 2007, that is, acceptable sequence listing materials, including a CRF of the sequence listing in acceptable form.

The petition includes a statement that: "Applicants attest that the entire delay in filing this required reply from August 29, 2007 until today was unintentional. Therefore, Applicants note that this was an unintentional abandonment." This statement is accepted as satisfying the requirement of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the application is appropriately granted.

**CONCLUSION**

The petition for revival under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 June 2006.

A handwritten signature in black ink, appearing to read 'RM Ross'.

Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459